

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:
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PLR-112352-13

Date:
May 07, 2013

LEGEND:

Parent =
Taxpayer =
A =
B =
Date 1 =
Date 2 =
Date 3 =

Dear :

This letter responds to your request dated , filed by Parent on behalf of Taxpayer, requesting an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations for Taxpayer to submit

under
of the Internal Revenue Code and .

According to the information submitted, Taxpayer is a single-member LLC owned by A. A is a subsidiary of B, a single-member LLC owned by Parent. Taxpayer relied on an independent law firm to prepare and timely file pursuant to to the Service on or before Date 1. The law firm, however, did not file until Date 2. Parent, on behalf of Taxpayer, requested an extension of time to file under §§ 301.9100-1 and 301.9100-3 on Date 3.

Taxpayer represents that granting the relief requested will not result in Taxpayer having a lower tax liability in the aggregate for the tax years affected by the election than Taxpayer would have had if the election had been timely made (taking into account the time value of money). Taxpayer also represents that it acted in good faith and that granting relief will not result in prejudice to the interests of the Government.

Law and Analysis

Under § 301.9100-1(c), the Commissioner in exercising the Commissioner's discretion may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I.

Sections 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a).

The Commissioner will grant requests for relief under § 301.9100-3 when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government. Section 301.9100-3(a).

Section 301.9100-3(b)(1) provides, in part, that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer requests relief under § 301.9100-3 before the failure to make the regulatory election is discovered by the Internal Revenue Service; the taxpayer failed to make the election because of intervening events beyond the taxpayer's control; the taxpayer failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election; the taxpayer reasonably relied on the written advice of the Service; or the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(c) provides, in part, that the Government's interest is considered prejudiced if granting relief would result in a taxpayer having a lower tax liability in the aggregate of all taxable years affected by the election than the taxpayer would have had if the election had been timely made (taking into account the time value of money).

Based solely on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, the Commissioner grants Taxpayer an extension of time until Date 2 to make the election under _____ with the Service. The election must comply with the requirements of _____.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination. Except as specifically set forth above, we express no opinion concerning the federal tax

consequences of the facts described above under any other provision of the Code and the regulations thereunder. Specifically, we express no opinion concerning whether Taxpayer satisfies the requirements of .

This letter ruling is directed only to the taxpayer who requested it. Under § 6110(k)(3), a letter ruling may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this ruling letter to your authorized representatives. We also are sending a copy of this letter to the appropriate Industry Director, LB&I.

Sincerely,
Associate Chief Counsel
(Passthroughs and Special Industries)

Jaime C. Park
Senior Technician Reviewer, Branch 6
Office of Associate Chief Counsel
(Passthroughs & Special Industries)